

I hereby certify that this paper and fee are being TRANSMITTED VIA FACSIMILE TO: Assistant Commissioner for Patents, P. O. Box 1450, ALEXANDRIA, VA 22313-1450. Date of Deposit: 07/07/2006 Name of Person Making Deposit: Amy Barger

Signature *Amy Barger*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
CENTRAL FAX CENTER

JUL 07 2006

Applicant(s): Michael M. Iwatake (et al.) Examiner: Anh D. Mai
Serial No.: 10/711,298 Group Art Unit: 2814
Filed: September 9, 2004 Attorney Docket No: FIS920040156
Title: VIA CONTACT STRUCTURE HAVING DUAL SILICIDE LAYERS

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This request is being filed with a Notice of Appeal.

Applicants respectfully request review of the final rejection in the above-identified application. No amendments are being filed with this request.

Reasons for this request begin on page 2 of this paper.

FIS920040156

- 1/4 -

Claim Rejections - 35 USC §112

In the Final Office Action, the Examiner rejected claims 4 and 5 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter. In particular, the Examiner alleges that the first metal is a silicide and the sidewall portion of the second metal is a metal and therefore they are not the same. The Examiner also alleges that because the first metal and the bottom portion of the second metal are silicide, they do not consist of essentially cobalt or titanium.

Applicants respectfully disagree with the Examiner's rejection.

Claims 4 and 5 depend indirectly from independent claim 1, which recites a first layer consisting essentially of "a silicide of a first metal" and a second layer including "a second metal" and "a silicide of said second metal". Claim 4 recites that the first metal (which forms in the silicide of the first layer) and the second metal (which forms a sidewall portion and the silicide of a bottom portion of the second layer) are the same. Claim 5 recites that the first metal consists essentially of cobalt, and the second metal consists essentially of titanium. It is clear that claims 4 and 5 are definite and distinctly claim the subject matter which Applicants regard as the invention.

Regarding the Examiner's rejections of claims 4 and 5, Applicants respectfully submit that the Examiner's allegation that "because first metal is the silicide while ... the second metal ... is a metal, not a silicide. Therefore, they are not the same" or "the first metal is a silicide (103), thus, not consists essentially cobalt ... the bottom portion (of the second metal) is a silicide ... thus not consists essentially of titanium" has no technical merit for the reasons below.

A metal is different from a silicide and is not a silicide. On the other hand, a silicide may be formed by metals and thus may comprise of metals. It is both technically and factually possible that a metal or a metal that forms a silicide may be the same or different from another metal or another metal that forms another silicide. For the same argument, a metal or a metal that forms a silicide may consist essentially of cobalt, titanium, or any other metals.

Claim Rejections - 35 USC §102

In the Office Action, the Examiner rejected claims 1-5 and 8 under 35 U.S.C. §102(b), as being anticipated by Chung et al. (US Patent No. 5,094,981).

Applicants respectfully disagree with the Examiner's rejection.

Independent claim 1 claims a via contact structure that comprises, inter alia, a dielectric region "having an outer surface and an opening extending from said outer surface through said first layer to said top surface of said substrate", and a second layer "lining said opening and contacting said top surface in said opening". Applicants respectfully submit that prior art reference Chung et al. does not teach, suggest, or even imply the above distinctive elements of claim 1.

In the Office Action, the Examiner alleges that prior art reference Chung et al. describes a via contact structure having a first layer (42c) and a dielectric region (32) that has an outer surface and an opening extending from the outer surface of the electric region (32) (FIG. 2d of Chung et al. as suggested by the Examiner). However, the Examiner failed to show that the opening of the dielectric region (dielectric region 32 according to the Examiner) extending from said outer surface through said first layer (layer 42c according to the Examiner) to said top surface of said substrate (substrate 10 according to the Examiner), as specifically required by independent claim 1.

In the Office Action, the Examiner alleges that the expression of "an opening extending from said outer surface through said first layer to said top surface of said substrate" is a product by process limitation and therefore is given no patentable weight.

Applicants respectfully disagree with the Examiner's contention.

Applicants respectfully submit that the Examiner's allegation (that the above quoted expression is a product by process limitation) has no merit. The expression of "extending from said outer surface through said first layer to said top surface of said substrate" describes the structure of an opening, and is clearly a structural limitation of the claimed invention, not a description of process.

In the Office Action, the Examiner also alleges that prior art reference Chung et al. describes a second layer lining the opening and contacting the top surface in the

opening. Applicants respectfully submit that the Examiner's allegation is false and with no merit. Because the opening of dielectric region (32), as alleged by the Examiner, does not even extend through layer (42c) to the top surface of substrate (10), as is clearly shown in FIG. 2d, it is physically and logically impossible for liner (34) to be in contact with top surface of substrate (10) in the opening of dielectric region (32).

In view of the above remarks, Applicants respectfully submit that claim 1 of present invention is not anticipated under 35 U.S.C. §102(b) by prior art reference of record, in particular by Chung et al., and is patentable.

Claims 2-5 and 8 depend directly or indirectly from claim 1, and thus include all the distinct elements of claim 1 in addition to other distinctive features and elements. Therefore, claims 2-5 and 8 are patentable at least for the reasons as described above with regard to claim 1.

Claim Rejections - 35 USC §103

In the Office Action, the Examiner rejected claims 6, 7, 9 and 10 under 35 U.S.C. §103(a), as being unpatentable over Chung et al. in view of Ohsaki.

Applicants respectfully disagree with the Examiner's rejection.

Claims 6, 7, 9 and 10 depend directly or indirectly from independent claim 1, and so are patentable at least for the reasons as described above with regard to claim 1.

Respectfully submitted,



Yuanmin Cai
Agent for Applicants
Registration No. 56513

Dated: July 7, 2006

INTERNATIONAL BUSINESS MACHINE CORPORATION
Intellectual Property Law Department, East Fishkill
2070 Route 52, Bldg-321, Zip-482
Hopewell Junction, NY 12533
Tel: (845) 894-8469
Fax: (845) 892-6363

FIS920040156

- 4/4 -

RECEIVED
CENTRAL FAX CENTER

JUL 07 2006

Doc Code: AP.PRE.REQ

PTO/SB/33 (07/05)

Approved for use through xx/xx/200x. OMB 0651-00xx
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) FIS920040156	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR		Application Number 10/711,298	Filed September 9, 2004
on <u>July 7, 2006</u>		First Named Inventor Michael M. Iwatake	
Signature <u>Amy Barger</u>		Art Unit 2814	Examiner Anh D. Mai
Typed or printed name <u>Amy Barger</u>			
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the		Signature <u>Yuanmin Cai</u>	
<input type="checkbox"/> applicant/inventor.		Yuanmin Cai	
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)		Typed or printed name	
<input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>56,513</u>		845-894-8469	
		Telephone number	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34		July 7, 2006	
		Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
<input type="checkbox"/> Total of _____ forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.